

REMARKS/ARGUMENTS

In the Office Action mailed July 15, 2008 (hereinafter, "Office Action"), claims 34-35, 37-42, 44-49, 51-56 and 58 stand rejected under 35 U.S.C. § 103. Claims 34, 39, 45, 46, 52 and 53 have been amended. Claims 1-33, 36, 38, 43-44, 50-51 and 57-58 have been canceled.

Applicant respectfully responds to the Office Action.

I. Claims 34-35, 37-42, 44-49, 51-56 and 58 Rejected Under 35 U.S.C. § 103(a)

Claims 34-35, 37-42, 44-49, 51-56 and 58 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over "ITU-T Recommendation G.729 Annex B: A Silence Compression Scheme for Use with G.729 Optimized for V.70 Digital Simultaneous Voice and Data Applications," by Benyassine (hereinafter, "Benyassine") in view of U.S. Patent No. 4,817,146 to Szczutkowski et al. (hereinafter, "Szczutkowski"). This rejection is respectfully traversed.

The factual inquiries that are relevant in the determination of obviousness are determining the scope and contents of the prior art, ascertaining the differences between the prior art and the claims in issue, resolving the level of ordinary skill in the art, and evaluating evidence of secondary consideration. KSR Int'l Co. v. Teleflex Inc., 550 U.S. ___, 2007 U.S. LEXIS 4745, at **4-5 (2007) (citing Graham v. John Deere Co. of Kansas City, 383 U.S. 1, 17-18 (1966)). As the Board of Patent Appeals and Interferences has recently confirmed, "obviousness requires a suggestion of all limitations in a claim." In re Wada and Murphy, Appeal 2007-3733 (citing CFMT, Inc. v. Yieldup Intern. Corp., 349 F.3d 1333, 1342 (Fed. Cir. 2003)). Moreover, the analysis in support of an obviousness rejection "should be made explicit." KSR, 2007 U.S. LEXIS 4745, at **37. "[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." Id. (citing In re Kahn, 441 F.3d 977, 988 (Fed. Cir. 2006)).

Applicant respectfully submits that the claims at issue are patentably distinct from the cited references. The cited references do not teach or suggest all of the subject matter in these claims.

Claim 34 of the present application (the "Present Application") requires:

a vocoder for generating active vocoder frames from a digitized audio signal at a predetermined output rate if speech is present, for generating inactive

vocoder frames during periods of speech inactivity, wherein the inactive vocoder frames are not transmitted to a receiver, . . .

a state vector generator for incrementing a state vector for each generated active or transition vocoder frame, wherein the state vector generator is disabled for each inactive vocoder frame such that the state vector is not incremented for each inactive vocoder frame.

(Emphasis added.)

As explained in connection with Figures 8A and 8B of the Present Application, "unintelligible data" may be produced during decryption when inactive vocoder frames are not transmitted to a receiver. (Present Application p. 11, line 12-p. 12, line 22.) This problem, however, may be resolved by disabling the state vector generator for each inactive vocoder such that the state vector is not incremented for inactive vocoder frames. (*Id.*) In one embodiment, not incrementing the state vector for inactive vocoder frames may be achieved by disabling a vector generator 710 through "control signal from vocoder 704." (Present Application at p. 12, lines 6-9.)

The Office Action has acknowledged that Benyassine does not expressly disclose generating a state vector, asserting instead that Szczutkowski teaches this limitation. (Office Action at p. 3.) Szczutkowski, however, clearly does not teach disabling a state vector generator such that the state vector is not incremented for inactive vocoder frames. In fact, Szczutkowski expressly teaches "a progressively changing 'vector'" for "blocks or 'frames' of a fixed size." (Szczutkowski at col. 5, lines 34-37 (emphasis added).) Szczutkowski thus fails to teach or suggest not incrementing a vector for "blocks or 'frames' of a fixed size" for inactive periods.¹ As a result, neither Benyassine nor Szczutkowski teach, suggest, or disclose all the limitations of the Present Application.

In view of the foregoing, Applicant respectfully submits that claim 34 is patentably distinct from the cited references. Accordingly, Applicant respectfully requests that the rejection of claim 34 be withdrawn.

Claims 35 and 37 depend either directly or indirectly from claim 34. Accordingly, Applicant respectfully requests that the rejection of claims 35 and 37 be withdrawn.

¹The Office Action also cites column 24, lines 19 to 26 of Szczutkowski to support the rejection. (Office action at p. 3.) This excerpt of Szczutkowski, however, does not relate to a state vector, but instead relates to a "sync loss counter" that is triggered when the data appears to be out of synchronization. Moreover, the sync loss counter is incremented (and does not remain static) when the data appears to be out of synchronization.

Claims 39, 46, and 53 include subject matter similar to the subject matter of claim 34. Accordingly, Applicant respectfully requests that the rejection of claims 39, 46, and 53 be withdrawn for at least the same reasons as those presented above in connection with claim 34.

Claims 40-42 and 45 depend either directly or indirectly from claim 39. Claims 47-49 and 52 depend either directly or indirectly from claim 46. Claims 54-56 depend either directly or indirectly from claim 53. Accordingly, Applicant respectfully requests that the rejection of claims 40-42, 45, 47-49, and 54-56 be withdrawn.


CONCLUSION

In view of the foregoing, Applicant respectfully submits that all pending claims in the present application are in a condition for allowance, which is earnestly solicited. Should any issues remain unresolved, the Examiner is encouraged to telephone the undersigned at the number provided below.

Please charge any fees or overpayments that may be due with this response to Deposit Account No. 17-0026.

Respectfully submitted,

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